# ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

**ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು**

| ಸಂಪುಟ ೧೫೧<br>**Volume 151** | ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಜನವರಿ ೨೬, ೨೦೧೭ (ಮಾಘ ೬, ಶಕ ವರ್ಷ ೧೯೩೮)<br>**Bengaluru, Thursday, January 26, 2017 (Magha 6, Shaka Varsha 1938)** | ಸಂಚಿಕೆ ೪<br>**Issue 4** |
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## ಭಾಗ ೪

## ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

**ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ**

**ಅಧಿಸೂಚನೆ**

**ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 32 ಕೇಶಾಪ್ರ 2016, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 19ನೇ ನವೆಂಬರ್ 2016**

ದಿನಾಂಕ 16-08-2016 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ (1) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Enforcement of Security Interst and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016 (No. 44 of 2016) ದಿನಾಂಕ: 16-08-2016 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

**MINISTRY OF LAW AND JUSTICE**

**(Legislative Department)**

**New Delhi, the 16th August, 2016/Shravana 25, 1938 (Saka)**

The following Act of Parliament received the assent of the President on the 12th August, 2016, and is hereby published for general information:-

## THE ENFORCEMENT OF SECURITY INTEREST AND RECOVERY OF DEBTS LAWS AND MISCELLANEOUS PROVISIONS (AMENDMENT) ACT, 2016

**No.44 OF 2016**

**[12th August, 2016]**

An Act further to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Recovery of Debts due to Banks and Financial Institutions Act, 1993, the Indian Stamp Act, 1899, and the Depositories Act, 1996, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:-

**CHAPTER I**

**PRELIMINARY**

**1. Short title and commencement.** (1) This Act may be called the Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**CHAPTER II**

**AMENDMENTS TO THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002**

**2. Amendment of long title.** In the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (54 of 2002) (hereinafter referred to in this Chapter as the principal Act), for the long title, the following shall be substituted, namely:-

"An Act to regulate securitisation and reconstruction of financial assets and enforcement of security interest and to provide for a Central database of security interests created on property rights, and for matters connected therewith or incidental thereto."

**3. Substitution of references to certain expressions by other expressions.** Throughout the principal Act,-

(i) for the words "securitisation company", "reconstruction company", "securitisation or reconstruction company", "securitisation company or the reconstruction company" or "securitisation company or a reconstruction company", wherever they occur, the words "asset reconstruction company" shall be substituted;

(ii) for the words "securitisation companies or reconstruction companies", wherever they occur, the words "asset reconstruction companies" shall be substituted;

(iii) for the words "qualified institutional buyer", wherever they occur, the words "qualified buyer" shall be substituted;

(iv) for the words "qualified institutional buyers", wherever they occur, the words "qualified buyers" shall be substituted.

**4. Amendment of section 2.** In the principal Act, in section 2, in sub-section (1),-

(i) after clause (b), the following clause shall be inserted, namely:-

'(ba) "asset reconstruction company" means a company registered with Reserve Bank under section 3 for the purposes of carrying on the business of asset reconstruction or securitisation, or both;';

(ii) in clause (f), after the words "financial institution in relation to such financial assistance", the words "or who has raised funds through issue of debt securities" shall be inserted;

(iii) after clause (g), the following clause shall be inserted namely:-

'(ga) "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013;'; (18 of 2013)

(iv) for clause (ha), the following clause shall be substituted, namely:-

'(ha) "debt" shall have the meaning assigned to it in clause (g) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (35 51 of 1993) and includes-

(i) unpaid portion of the purchase price of any tangible asset given on hire or financial lease or conditional sale or under any other contract;

(ii) any right, title or interest on any intangible asset or licence or assignment of such intangible asset, which secures the obligation to pay any unpaid portion of the purchase price of such intangible asset or an obligation incurred or credit otherwise extended to enable any borrower to acquire the intangible asset or obtain licence of such asset;';

(v) after clause (i), the following clause shall be inserted, namely:-

'(ia) "debt securities" means debt securities listed in accordance with the regulations made by the Board under the Securities and Exchange Board of India Act, 1992 ;'; (15 of 1992)

(vi) for clause (j), the following clause shall be substituted, namely:-

(j) "default" means-

(i) non-payment of any debt or any other amount payable by the borrower to any secured creditor consequent upon which the account of such borrower is classified as non -performing asset in the books of account of the secured creditor; or

(ii) non-payment of any debt or any other amount payable by the borrower with respect to debt securities after notice of ninety days demanding payment of dues served upon such borrower by the debenture trustee or any other authority in whose favour security interest is created for the benefit of holders of such debt securities;';

(vii) in clause (k), after the words" any bank or financial institution", the following words shall be inserted, namely:-

"including funds provided for the purpose of acquisition of any tangible asset on hire or financial lease or conditional sale or under any other contract or obtaining assignment or licence of any intangible asset or purchase of debt securities;";

(viii) in clause (l), after sub-clause (v), the following sub-clauses shall be inserted, namely:-

"(va) any beneficial right, title or interest in any tangible asset given on hire or financial lease or conditional sale or under any other contract which secures the obligation to pay any unpaid portion of the purchase price of such asset or an obligation incurred or credit otherwise provided to enable the borrower to acquire such tangible asset; or

(vb) any right, title or interest on any intangible asset or licence or assignment of such intangible asset, which secures the obligation to pay any unpaid portion of the purchase price of such intangible asset or an obligation incurred or credit otherwise extended to enable the borrower to acquire such intangible asset or obtain licence of the intangible asset; or";

(*ix*) in clause (*m*), after sub-clause (*iii*), the following sub-clauses shall be inserted, namely:—

"(iiia) a debenture trustee registered with the Board and appointed for secured debt securities;

(iiib) asset reconstruction company, whether acting as such or managing a trust created for the purpose of securitisation or asset reconstruction, as the case may be;";

(*x*) after clause (*m*), the following clause shall be inserted, namely:—

'(ma) "financial lease" means a lease under any lease agreement of tangible asset, other than negotiable instrument or negotiable document, for transfer of lessor's right therein to the lessee for a certain time in consideration of payment of agreed amount periodically and where the lessee becomes the owner of the such assets at the expiry of the term of lease or on payment of the agreed residual amount, as the case may be;';

(*xi*) after clause (*n*), the following clause shall be inserted, namely:—

'(na) "negotiable document" means a document, which embodies a right to delivery of tangible assets and satisfies the requirements for negotiability under any law for the time being in force including warehouse receipt and bill of lading;';

(*xii*) in clause (*i*), in sub-clause (*v*), after the words "right of similar nature", the words "as may be prescribed by the Central Government in consultation with Reserve Bank" shall be inserted;

(*xiii*) in clause (*u*), after the words "regulations made thereunder,", the words, figures and brackets " any category of non-institutional investors as may be specified by the Reserve Bank under sub-section (*1*) of section 7" shall be inserted;

(*xiv*) clause (*v*) shall be omitted;

(*xv*) clause (*za*) shall be omitted;

(*xvi*) for clause (*zd*), the following clause shall be substituted, namely:—

'(*zd*) "secured creditor" means—

(*i*) any bank or financial institution or any consortium or group of banks or financial institutions holding any right, title or interest upon any tangible asset or intangible asset as specified in clause (*l*);

(*ii*) debenture trustee appointed by any bank or financial institution;

or

(*iii*) an asset reconstruction company whether acting as such or managing a trust set up by such asset reconstruction company for the securitisation or reconstruction, as the case may be; or

(*iv*) debenture trustee registered with the Board appointed by any company for secured debt securities; or

(*v*) any other trustee holding securities on behalf of a bank or financial institution, in whose favour security interest is created by any borrower for due repayment of any financial assistance.';

(*xvii*) for clause (*zf*), the following clause shall be substituted, namely:—

'(*zf*) "security interest" means right, title or interest of any kind, other than those specified in section 31, upon property created in favour of any secured creditor and includes—

(*i*) any mortgage, charge, hypothecation, assignment or any right, title or interest of any kind, on tangible asset, retained by the secured creditor as an owner of the property, given on hire or financial lease or conditional sale or under any other contract which secures the obligation to pay any unpaid portion of the purchase price of the asset or an obligation incurred or credit provided to enable the borrower to acquire the tangible asset; or

(*ii*) such right, title or interest in any intangible asset or assignment or licence of such intangible asset which secures the obligation to pay any unpaid portion of the purchase price of the intangible asset or the obligation incurred or any credit provided to enable the borrower to acquire the intangible asset or licence of intangible asset;'.

**5. Amendment of section 3.** In the principal Act, in section 3,—

(*i*) in sub-section (*1*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) having net owned fund of not less than two crore rupees or such other higher amount as the Reserve Bank, may, by notification, specify:";

(*ii*) in sub-section (*3*),—

(*a*) for clause (*f*), the following clause shall be substituted, namely:—

"(*f*) that a sponsor of an asset reconstruction company is a fit and proper person in accordance with the criteria as may be specified in the guidelines issued by the Reserve Bank for such persons;";

(*b*) clause (*d*) shall be omitted.

(*iii*) in sub-section (*6*),—

(*a*) after the words "any substantial change in its management", the words "including appointment of any director on the board of directors of the asset reconstruction company or managing director or chief executive officer thereof" shall be inserted;

(*b*) in the *Explanation*, after the words "by way of transfer of shares or", the words "change affecting the sponsorship in the company by way of transfer of shares or" shall be inserted.

**6. Amendment of section 5.** In the principal Act, in section 5,—

(*i*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Any document executed by any bank or financial institution under sub-section (*1*) in favour of the asset reconstruction company acquiring financial assets for the purposes of asset reconstruction or securitisation shall be exempted from stamp duty in accordance with the provisions of section 8F of the Indian Stamp Act, 1899: (2 of 1899)

Provided that the provisions of this sub-section shall not apply where the acquisition of the financial assets by the asset reconstruction company is for the purposes other than asset reconstruction or securitisation.";

(*ii*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) If the bank or financial institution is holding any right, title or interest upon any tangible asset or intangible asset to secure payment of any unpaid portion of the purchase price of such asset or an obligation incurred or credit otherwise provided to enable the borrower to acquire the tangible asset or assignment or licence of intangible asset, such right, title or interest shall vest in the asset reconstruction company on acquisition of such assets under sub-section (*1*).";

**7. Amendment of section 7.** In the principal Act, in section 7, in sub-section (*1*), for the brackets and words "(other than by offer to public)", the words "or such other category of investors including non-institutional investors as may be specified by the Reserve Bank in consultation with the Board, from time to time," shall be substituted.

**8. Substitution of new section for section 9.** In the principal Act, for section 9, the following section shall be substituted, namely:—

**"9. Measures for assets reconstruction.** (*1*) Without prejudice to the provisions contained in any other law for thetime being in force, an asset reconstruction company may, for the purposes of asset reconstruction, provide for any one or more of the following measures, namely:—

(*a*) the proper management of the business of the borrower, by change in, or take over of, the management of the business of the borrower;

(*b*) the sale or lease of a part or whole of the business of the borrower;

(*c*) rescheduling of payment of debts payable by the borrower;

(*d*) enforcement of security interest in accordance with the provisions of this Act;

(*e*) settlement of dues payable by the borrower;

(*f*) taking possession of secured assets in accordance with the provisions of this Act;

(*g*) conversion of any portion of debt into shares of a borrower company:

Provided that conversion of any part of debt into shares of a borrower company shall be deemed always to have been valid, as if the provisions of this clause were in force at all material times.

(*2*) The Reserve Bank shall, for the purposes of sub-section (*1*), determine the policy and issue necessary directions including the direction for regulation of management of the business of the borrower and fees to be charged.

(*3*) The asset reconstruction company shall take measures under sub-section (*1*) in accordance with policies and directions of the Reserve Bank determined under sub-section (*2*)."

**9. Amendment of section 12.** In the principal Act, in section 12, in sub-section (*2*), after clause (*b*), the following clauses shall be inserted, namely:—

"(c) the fee and other charges which may be charged or incurred for management of financial assets acquired by any asset reconstruction company;

(d) transfer of security receipts issued to qualified buyers.".

**10. Insertion of new section 12B.** In the principal Act, after section 12A, the following section shall be inserted, namely:-

**"12B. Power of Reserve Bank to carry out audit and inspection 12B.** (1) The Reserve Bank may, for the purposes of this Act, carry out or caused to be carried out audit and inspection of an asset reconstruction company from time to time.

(2) It shall be the duty of an asset reconstruction company and its officers to provide assistance and cooperation to the Reserve Bank to carry out audit or inspection under sub-section (1).

(3) Where on audit or inspection or otherwise, the Reserve Bank is satisfied that business of an asset reconstruction company is being conducted in a manner detrimental to public interest or to the interests of investors in security receipts issued by such asset reconstruction company, the Reserve Bank may, for securing proper management of an asset reconstruction company, by an order-

(a) remove the Chairman or any director or appoint additional directors on the board of directors of the asset reconstruction company; or

(b) appoint any of its officers as an observer to observe the working of the board of directors of such asset reconstruction company:

Provided that no order for removal of Chairman or director under clause (a) shall be made except after giving him an opportunity of being heard.

(4) It shall be the duty of every director or other officer or employee of the asset reconstruction company to produce before the person, conducting an audit or inspection under sub-section (1), all such books, accounts and other documents in his custody or control and to provide him such statements and information relating to the affairs of the asset reconstruction company as may be required by such person within the stipulated time specified by him."

**11. Amendment of section 13.** In the principal Act, in section 13,-

(i) in sub-section (2), the following proviso shall be inserted, namely:-

"Provided that-

(i) the requirement of classification of secured debt as non-performing asset under this sub-section shall not apply to a borrower who has raised funds through issue of debt securities; and

(ii) in the event of default, the debenture trustee shall be entitled to enforce security interest in the same manner as provided under this section with such modifications as may be necessary and in accordance with the terms and conditions of security documents executed in favour of the debenture trustee;";

(iii) for sub-section (8), the following sub-section shall be substituted, namely:-

"(8) Where the amount of dues of the secured creditor together with all costs, charges and expenses incurred by him is tendered to the secured creditor at any time before the date of publication of notice for public auction or inviting quotations or tender from public or private treaty for transfer by way of lease, assignment or sale of the secured assets,-

(i) the secured assets shall not be transferred by way of lease assignment or sale by the secured creditor; and

(ii) in case, any step has been taken by the secured creditor for transfer by way of lease or assignment or sale of the assets before tendering of such amount under this sub-section, no further step shall be taken by such secured creditor for transfer by way of lease or assignment or sale of such secured assets."

**12. Amendment of section 14.** In the principal Act, in section 14, in sub-section (1),-

(i) in the second proviso, after the words "secured assets", the words "within a period of thirty days from the date of application" shall be inserted;

(ii) after the second proviso, the following proviso shall be inserted, namely:-

"Provided further that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such further period but not exceeding in aggregate sixty days.".

**13. Amendment of section 15.** In the principal Act, in section 15, in sub-section (4), the following proviso shall be inserted, namely:-

"Provided that if any secured creditor jointly with other secured creditors or any asset reconstruction company or financial institution or any other assignee has converted part of its debt into shares of a borrower company and thereby acquired controlling interest in the borrower company, such secured creditors shall not be liable to restore the management of the business to such borrower."

**14. Amendment of section 17.** In the principal Act, in section 17,-

(i) for the marginal heading "Right to appeal", the words "Application against measures to recover secured debts" shall be substituted;

(ii) after sub-section (1), the following sub-sections shall be inserted, namely:-"

(1A) An application under sub-section (1) shall be filed before the Debts Recovery Tribunal within the local limits of whose jurisdiction-

(a) the cause of action, wholly or in part, arises;

(b) where the secured asset is located; or

(c) the branch or any other office of a bank or financial institution is maintaining an account in which debt claimed is outstanding for the time being.";

(iii) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) If, the Debts Recovery Tribunal, after examining the facts and circumstances of the case and evidence produced by the parties, comes to the conclusion that any of the measures referred to in sub-section (4) of section 13, taken by the secured creditor are not in accordance with the provisions of this Act and the rules made thereunder, and require restoration of the management or restoration of possession, of the secured assets to the borrower or other aggrieved person, it may, by order,-

(a) declare the recourse to anyone or more measures referred to in sub-section (4) of section 13 taken by the secured creditor as invalid; and

(b) restore the possession of secured assets or management of secured assets to the borrower or such other aggrieved person, who has made an application under sub-section (1), as the case may be; and

(c) pass such other direction as it may consider appropriate and necessary in relation to any of the recourse taken by the secured creditor under sub-section (4) of section 13.";

(iv) after sub-section (4), the following sub-section shall be inserted, namely:-

"(4A) Where-

(i) any person, in an application under sub-section (1), claims any tenancy or leasehold rights upon the secured asset, the Debt Recovery Tribunal, after examining the facts of the case and evidence produced by the parties in relation to such claims shall, for the purposes of enforcement of security interest, have the jurisdiction to examine whether lease or tenancy,-

(a) has expired or stood determined; or

(b) is contrary to section 65A of the Transfer of Property Act, 1882; (4 of 1882).

or

(c) is contrary to terms of mortgage; or

(d) is created after the issuance of notice of default and demand by the Bank under sub-section (2) of section 13 of the Act; and

(ii) the Debt Recovery Tribunal is satisfied that tenancy right or leasehold rights claimed in secured asset falls under the sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) of clause (i), then notwithstanding anything to the contrary contained in any other law for the time being in force, the Debt Recovery Tribunal may pass such order as it deems fit in accordance with the provisions of this Act.".

**15. Amendment of section 19.** In the principal Act, in section 19, for the words "concerned borrowers, such borrowers", the words "concerned borrowers or any other aggrieved person, who has filed the application under section 17 or section 17 A or appeal under section 18 or section 18A, as the case may be, the borrower or such other person" shall be substituted.

**16. Insertion of new sections 20A and 20B.** In the principal Act, after section 20, the following sections shall be inserted, namely:-

**Integration of registration systems with Central Registry.** "20A. (1) The Central Government may, for the purpose of providing a Central database, in consultation with State Governments or other authorities operating registration system for recording rights over any property or creation, modification or satisfaction of any security interest on such property, integrate the registration records of such registration systems with the records of Central Registry established under section 20, in such manner as may be prescribed.

**Explanation.-**For the purpose of this sub-section, the registration records includes records of registration under the Companies Act, 2013, (18 of 2013. 16 of 1908. 44 of 1958. 59 of 1988. 39 of 1970. 16 of 2000) the Registration Act, 1908, the Merchant Shipping Act, 1958, the Motor Vehicles Act, 1988, the Patents Act, 1970, the Designs Act, 2000 or other such records under any other law for the time being in force.

(2) The Central Government shall after integration of records of various registration systems referred to in sub-section (1) with the Central Registry, by notification, declare the date of integration of registration systems and the date from which such integrated records shall be available; and with effect from such date, security interests over properties which are registered under any registration system referred to in sub-section (1) shall be deemed to be registered with the Central Registry for the purposes of this Act.".

**"20B. Delegation of powers.** The Central Government may, by notification, delegate its powers and functions under this Chapter, in relation to establishment, operations and regulation of the Central Registry to the Reserve Bank, subject to such terms and conditions as may be prescribed.".

**17. Amendment of section 23.** In the principal Act,-

(i) section 23 shall be numbered as sub-section (1), and in sub-section (1) as so re-numbered,-

(a) the words "within thirty days after the date of such transaction or creation of security, by the securitisation company or reconstruction company or the secured creditor, as the case may be" shall be omitted;

(b) the first proviso shall be omitted;

(c) in the second proviso, the word "further" shall be omitted;

(ii) in section 23, after sub-section (1) so renumbered, the following sub-sections shall be inserted, namely:-

"(2) The Central Government may, by notification, require the registration of transaction relating to different types of security interest created on different kinds of property with the Central Registry.

(3) The Central Government may, by rules, prescribe forms for registration for different types of security interest under this section and fee to be charged for such registration.".

**18. Insertion of new Chapter IVA.** In the principal Act, after section 26A, the following chapter shall be inserted, namely:-

**"CHAPTER IVA**

**REGISTRATION BY SECURED CREDITORS AND OTHER CREDITORS**

**26B. Registration by secured creditors and other creditors.** (1) The Central Government may by notification, extend the provisions of Chapter IV relating to Central Registry to all creditors other than secured creditors as defined in clause (zd) of sub-section (1) of section 2, for creation, modification or satisfaction of any security interest over any property of the borrower for the purpose of securing due repayment of any financial assistance granted by such creditor to the borrower.

(2) From the date of notification under sub-section (1), any creditor including the secured creditor may file particulars of transactions of creation, modification or satisfaction of any security interest with the Central Registry in such form and manner as may be prescribed.

(3) A creditor other than the secured creditor filing particulars of transactions of creation, modification and satisfaction of security interest over properties created in its favour shall not be entitled to exercise any right of enforcement of securities under this Act.

(4) Every authority or officer of the Central Government or any State Government or local authority, entrusted with the function of recovery of tax or other Government dues and for issuing any order for attachment of any property of any person liable to pay the tax or Government dues, shall file with the Central Registry such attachment order with particulars of the assessee and details of tax or other Government dues from such date as may be notified by the Central Government, in such form and manner as may be prescribed.

(5) If any person, having any claim against any borrower, obtains orders for attachment of property from any court or other authority empowered to issue attachment order, such person may file particulars of such attachment orders with Central Registry in such form and manner on payment of such fee as may be prescribed.

**26C. Effect of the registration of transactions, etc.** (1) Without prejudice to the provisions contained in any other law, for the time being in force, any registration of transactions of creation, modification or satisfaction of security interest by a secured creditor or other creditor or filing of attachment orders under this Chapter shall be deemed to constitute a public notice from the date and time of filing of particulars of such transaction with the Central Registry for creation, modification or satisfaction of such security interest or attachment order, as the case may be.

(2) Where security interest or attachment order upon any property in favour of the secured creditor or any other creditor are filed for the purpose of registration under the provisions of Chapter IV and this Chapter, the claim of such secured creditor or other creditor holding attachment order shall have priority over any subsequent security interest created upon such property and any transfer by way of sale, lease or assignment or licence of such property or attachment order subsequent to such registration, shall be subject to such claim:

Provided that nothing contained in this sub-section shall apply to transactions carried on by the borrower in the ordinary course of business.

**26D. Right of enforcement of securities.** Notwithstanding anything contained in any other law for the time being in force, from the date of commencement of the provisions of this Chapter, no secured creditor shall be entitled to exercise the rights of enforcement of securities under Chapter III unless the security interest created in its favour by the borrower has been registered with the Central Registry.

**26E. Priority to secured creditors.** Notwithstanding anything contained in any other law for the time being in force, after the registration of security interest, the debts due to any secured creditor shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority.

Explanation.-For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016, (31 of 2016) in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code." .

**19. Amendment of section 27.** In section 27, the following proviso shall be inserted, namely:-

"Provided that provisions of this section shall be deemed to have been omitted from the date of coming into force of the provisions of this Chapter and section 23 as amended by the Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016.".

**20. Omission of section 28.** In the principal Act, section 28, shall be omitted.

**21. Insertion of new sections 30A, 30B, 30C and 30D.** In the principal Act, after section 30, the following sections shall be inserted, namely:-

**"30A. Power of adjudicating authority to impose penalty.** (1) Where any asset reconstruction company or any person fails to comply with any direction issued by the Reserve Bank under this Act the adjudicating authority may, by an order, impose on such company or person in default, a penalty not exceeding one crore rupees or twice the amount involved in such failure where such amount is quantifiable, whichever is more, and where such failure is a continuing one, a further penalty which may extend to one lakh rupees for every day, after the first, during which such failure continues.

(2) For the purpose of imposing penalty under sub-section (1), the adjudicating authority shall serve a notice on the asset reconstruction company or the person in default requiring such company or person to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall be given to such person.

(3) Any penalty imposed under this section shall be payable within a period of thirty days from the date of issue of notice under sub-section (2).

(4) Where the asset reconstruction company fails to pay the penalty within the specified period under sub-section (3), the adjudicating authority shall, by an order, cancel its registration:

Provided that an opportunity of being heard shall be given to such asset reconstruction company before cancellation of registration.

(5) No complaint shall be filed against any person in default in any court pertaining to any failure under sub-section (1) in respect of which any penalty has been imposed and recovered by the Reserve Bank under this section.

(6) Where any complaint has been filed against a person in default in the court having jurisdiction no proceeding for imposition of penalty against that person shall be taken under this section.

Explanation.-For the purposes of this section and sections 30B, 30C and 30D,-

(i) "adjudicating authority" means such officer or a committee of officers of the Reserve Bank, designated as such from time to time, by notification, by the Central Board of Reserve Bank;

(ii) "person in default" means the asset reconstruction company or any person which has committed any failure, contravention or default under this Act and any person incharge of such company or such other person, as the case may be, shall be liable to be proceeded against and punished under section 33 for such failure or contravention or default committed by such company or person.

**30B. Appeal against penalties.** A person in default, aggrieved by an order passed under sub-section (4) of section 30A, may, within a period of thirty days from the date on which such order is passed, prefer an appeal to the Appellate Authority:

Provided that the Appellate Authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filing it within such period.

**30C. Appellate Authority.** (1) The Central Board of Reserve Bank may designate such officer or committee of officers as it deems fit to exercise the power of Appellate Authority.

(2) The Appellate Authority shall have power to pass such order as it deems fit after providing a reasonable opportunity of being heard to the person in default.

(3) The Appellate Authority may, by an order stay the enforcement of the order passed by the adjudicating authority under section 30A, subject to such terms and conditions, as it deems fit.

(4) Where the person in default fails to comply with the terms and conditions imposed by order under sub-section (3) without reasonable cause, the Appellate Authority may dismiss the appeal.

**30D. Recovery of penalties.** (1) Any penalty imposed under section 30A shall be recovered as a "recoverable sum" and shall be payable within a period of thirty days from the date on which notice demanding payment of the recoverable sum is served upon the person in default and, in the case of failure of payment by such person within such period, the Reserve Bank may, for the purpose of recovery,-

(a) debit the current account, if any, of the person in default maintained with the Reserve Bank or by liquidating the securities, if any, held to the credit of such person in the books of the Reserve Bank;

(b) issue a notice to the person from whom any amount is due to the person in default, requiring such person to deduct from the amount payable by him to the person in default, such amount equivalent to the amount of the recoverable sum, and to make payment of such amount to the Reserve Bank.

(2) Save as otherwise provided in sub-section (4), a notice issued under clause (b) of sub-section (1) shall be binding on every person to whom it is issued, and, where such notice is issued to a post office, bank or an insurance company, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry or endorsement thereof before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(3) Any claim in respect of any amount, arising after the date of issue of notice under sub-section (1) shall be void as against the demand contained in such notice.

(4) Any person, to whom the notice is sent under sub-section (1), objects to such notice by a statement on oath that the sum demanded or any part thereof is not due to the person in default or that he does not hold any money for or on account of the person in default, then nothing contained in this section shall be deemed to require, such person to pay such sum or part thereof, as the case may be.

(5) Where it is found that statement made by the person under sub-section (4) is false in material particulars, such person shall be personally liable to the Reserve Bank to the extent of his own liability to the person in default on the date of the notice, or to the extent of the recoverable sum payable by the person in default to the Reserve Bank, whichever is less.

(6) The Reserve Bank may, at any time, amend or revoke any notice issued under sub-section (1) or extend the time for making the payment in pursuance of such notice.

(7) The Reserve Bank shall grant a receipt for any amount paid to it in compliance with a notice issued under this section and the person so paying shall be fully discharged from his liability to the person in default to the extent of the amount so paid.

(8) Any person discharging any liability to the person in default after the receipt of a notice under this section shall be personally liable to the Reserve Bank-

(a) to the extent of his own liability to the person in default so discharged; or

(b) to the extent of the recoverable sum payable by the person in default to the Reserve Bank,

whichever is less.

(9) Where the person to whom the notice is sent under this section, fails to make payment in pursuance thereof to the Reserve Bank, he shall be deemed to be the person in default in respect of the amount specified in the notice and action or proceedings may be taken or instituted against him for the realisation of the amount in the manner provided in this section.

(10) The Reserve Bank may enforce recovery of recoverable sum through the principal civil court having jurisdiction in the area where the registered office or the head office or the principal place of business of the person in default or the usual place of residence of such person is situated as if the notice issued by the Reserve Bank were a decree of the Court.

(11) No recovery under sub-section (10) shall be enforced, except on an application made to the principal civil court by an officer of the Reserve Bank authorised in this behalf certifying that the person in default has failed to pay the recoverable sum."

**22. Amendment of section 31.** In the principal Act, in section 31, clause (e) shall be omitted.

**23. Amendment of section 31A.** In the principal Act, in section 31A, for sub- section (2), the following sub-sections shall be substituted, namely:-

"(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days, and if, both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

(3) In reckoning any such period of thirty days as is referred to in sub-section (2), no account shall be taken of any period during which the House referred to in sub-section (2) is prorogued or adjourned for more than four consecutive days.

(4) The copies of every notification issued under this section shall, as soon as may be after it has been issued, be laid before each House of Parliament.".

**24. Amendment of section 32.** In the principal Act, in section 32, for the words "any secured creditor or any of his officers or manager exercising any of the rights of the secured creditor or borrower", the words "the Reserve Bank or the Central Registry or any secured creditor or any of its officers" shall be substituted.

**25. Amendment of section 38.** In the principal Act, in section 38, in sub-section (2),-

(i) clause (a) shall be numbered as clause (aa) and before clause (aa) as so renumbered, the following clause shall be inserted, namely:-

"(a) other business or commercial rights of similar nature under clause (t) of section 2;";

(ii) after clause (bc), the following clauses shall be inserted, namely:-

"(bca) the manner of integration of records of various registration systems with the records of Central Registry under sub-section (1) of section 20A;

(bcb) the terms and conditions of delegation of powers by the Central Government to the Reserve Bank under section 20B.";

(iii) after clause (d), the following clauses shall be inserted, namely:-

"(da) the form for registration of different types of security interests and fee thereof under sub-section (3) of section 23;";'

(iv) after clause (f), the following clauses shall be inserted, namely:-

"(fa) the form and the manner for filing particulars of transactions under sub-section (2) of section 26B;

(fb) the form and manner of filing attachment orders with the Central Registry and the date under sub-section (4) of section 26B;

(fc) the form and manner of filing particulars of attachment order with the Central Registry and the fee under sub-section (5) of section 26B."

**CHAPTER III**

**AMENDMENTS TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993**

**26. Amendment of section 2.** In the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) (hereinafter in this Chapter referred to as the principal Act), in section 2,-

(i) in clause (g), after the words "the date of the application", the following words shall be inserted, namely:-

"and includes any liability towards debt securities which remains unpaid in full or part after notice of ninety days served upon the borrower by the debenture trustee or any other authority in whose favour security interest is created for the benefit of holders of debt securities or;";

(ii) after clause (g), the following clause shall be inserted, namely:-

'(ga) "debt securities" means debt securities listed in accordance with regulations made by the Securities Exchange Board of India under the Securities And Exchange Board of India Act,1992;'; (15 of 1992)

(iii) in clause (h), after sub-clause (ia), the following sub-clause shall be inserted, namely:-

"(ib) a debenture trustee registered with the Board and appointed for secured debt securities;";

(iv) after clause (h), the following clause shall be inserted, namely:-

'(ha) "financial lease" means a lease under a lease agreement of tangible asset, other than negotiable instrument or negotiable document, for transfer of lessor's right therein to the lessee for a certain time in consideration of payment of

agreed amount periodically and where lessee becomes the owner of the such assets at the expiry of the term of lease or on payment of the agreed residual amount, as the case may be;';

(v) after clause (ja), the following clause shall be inserted, namely:-

'(jb) "property" means-

(a) immovable property;

(b) movable property;

(c) any debt or any right to receive payment of money, whether secured or unsecured;

(d) receivables, whether existing or future;

(e) intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature, as may be prescribed by the Central Government in consultation with Reserve Bank;';

(vi) after clause (l), the following clauses shall be inserted, namely:-

'(la) "secured creditor" shall have the meaning as assigned to it in clause (zd) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; (54 of 2002)

(lb) "security interest" means mortgage, charge, hypothecation, assignment or any other right, title or interest of any kind whatsoever upon property, created in favour of any bank or financial institution and includes-

(a) such right, title or interest upon tangible asset, retained by the bank or financial institution as owner of the property, given on hire or financial lease or conditional sale which secures the obligation to pay any unpaid portion of the purchase price of the asset or an obligation incurred or any credit provided to enable the borrower to acquire the tangible asset; or

(b) such right, title or interest in any intangible asset or licence of any intangible asset, which secures the obligation to pay any unpaid portion of the purchase price of the intangible asset or the obligation incurred or any credit extended to enable the borrower to acquire the intangible asset or licence of intangible asset;'.

**27. Amendment of section 4.** In the principal Act, in section 4, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) Notwithstanding anything contained in sub-section (1), the Central Government may-

(a) authorise the Presiding Officer of any other Tribunal established under any other law for the time being in force to discharge the function of the Presiding Officer of a Debt Recovery Tribunal under this Act in addition to his being the Presiding Officer of that Tribunal; or

(b) authorise the judicial Member holding post as such in any other Tribunal, established under any other law for the time being in force, to discharge the functions ofthe Presiding Officer of Debts Recovery Tribunal under this Act, in addition to his being the judicial Member of that Tribunal." .

**28. Amendment of section 6.** In the principal Act, for section 6, the following section shall be substituted, namely:-

**"6. Term of office of Presiding Officer.** The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

Provided that no person shall hold office as the Presiding Officer of a Tribunal after he has attained the age of sixty-five years.".

**29. Amendment of section 8.** In the principal Act, in section 8, in sub-section (1), the following proviso shall be inserted, namely:-

"Provided that the Central Government may authorise the Chairperson of any other Appellate Tribunal, established under any other law for the time being in force, to discharge the functions of the Chairperson of the Debts Recovery Appellate Tribunal under this Act in addition to his being the Chairperson of that Appellate Tribunal."

**30. Amendment of section 11.** In the Principal Act, for section 11, the following section shall be substituted, namely:-

**"11. Term of office of Chairperson of Appellate Tribunal.** The Chairperson of an Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

Provided that no person shall hold office as the Chairperson of a Appellate Tribunal after he has attained the age of seventy years.".

**31. Amendment of section 17A.** In the principal Act, in section 17 A, after sub-section (1), the following sub-sections shall be inserted, namely:-

"(1A) For the purpose of exercise of general powers of superintendence and control over Tribunals under sub-section (1), the Chairperson may-

(i) direct the Tribunals to furnish, in such form, at such intervals and within such time, information relating to pending cases both under this Act and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (54 of 2002) or under any other law for the time being in force, number of cases disposed of, number of new cases filed and such other information as may be considered necessary by the Chairperson;

(ii) convene meetings of the Presiding Officers of Tribunals periodically to review their performance.

(1B) Where on assessment of the performance of any Presiding Officer of the Tribunal or otherwise, the Chairperson is of the opinion that an inquiry is required to be initiated against such Presiding Officer for misbehaviour or incapacity, he shall submit a report to the Central Government recommending action against such Presiding Officer, if any, under section 15, and for reasons to be recorded in writing for the same.".

**32. Amendment of section 19.** In the principal Act, in section 19,-

(i) in sub-section (1), clause (a) shall be renumbered as clause (aa) and before clause (aa) so renumbered, the following clause shall be inserted, namely:-

"(a) the branch or any other office of the bank or financial institution is maintaining an account in which debt claimed is outstanding, for the time being; or";

(ii) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Every application under sub-section (1) or sub-section (2) shall be in such form, and shall be accompanied with true copies of all documents relied on in support of the claim along with such fee, as may be prescribed.".

(iii) in sub-section (3), after the second proviso, the following Explanation shall be inserted, namely:-

"Explanation.-For the purposes of this section, documents includes statement of account or any entry in banker's book duly certified under the Bankers' Books Evidence Act, 1891."; (18 of 1891)

(iv) after sub-section (3), sub-section (3A) shall be renumbered as sub-section (3B) and before sub-section (3B) so renumbered, the following sub-section shall be inserted, namely:-

"(3A) Every applicant in the application filed under sub-section (1) or sub-section (2) for recovery of debt, shall-

(a) state particulars of the debt secured by security interest over properties or assets belonging to any of the defendants and the estimated value of such securities;

(b) if the estimated value of securities is not sufficient to satisfy the debt claimed, state particulars of any other properties or assets owned by any of the defendants, if any; and

(c) if the estimated value of such other assets is not sufficient to recover the debt, seek an order directing the defendant to disclose to the Tribunal particulars of other properties or assets owned by the defendants.";

(v) for sub-section (4), the following sub-section shall be substituted, namely:-

(4) On receipt of application under sub-section (1) or sub-section (2), the Tribunal shall issue summons with following directions to the defendant-

(i) to show cause within thirty days of the service of summons as to why relief prayed for should not be granted;

(ii) direct the defendant to disclose particulars of properties or assets other than properties and assets specified by the applicant under clauses (a) and (b) of sub-section (3A); and

(iii) to restrain the defendant from dealing with or disposing of such assets and properties disclosed under clause (c) of sub-section (3A) pending the hearing and disposal of the application for attachment of properties. ":

(vi) after sub-section (4), the following sub-section shall be inserted namely:-

"(4A) Notwithstanding anything contained in section 65A of the Transfer of Property Act, 1882, (4 OF 1882) the defendant, on service of summons, shall not transfer by way of sale, lease or otherwise except in the ordinary course of his business any of the assets over which security interest is created and other properties and assets specified or disclosed under sub-section (3A), without the prior approval of the Tribunal:

Provided that the Tribunal shall not grant such approval without giving notice to the applicant bank or financial institution to show cause as to why approval prayed for should not be granted:

Provided further that defendant shall be liable to account for the sale proceeds realised by sale of secured assets in the ordinary course of business and deposit such sale proceeds in the account maintained with the bank or financial institution holding security interest over such assets.";

(vii) for sub-section (5), the following sub-section shall be substituted, namely:-

"(5) (i) the defendant shall within a period of thirty days from the date of service of summons, present a written statement of his defence including claim for set-off under sub-section (6) or a counter-claim under sub-section (8), if any, and such written statement shall be accompanied with original documents or true copies thereof with the leave of the Tribunal, relied on by the defendant in his defence:

Provided that where the defendant fails to file the written statement within the said period of thirty days, the Presiding Officer may, in exceptional cases and in special circumstances to be recorded in writing, extend the said period by such further period not exceeding fifteen days to file the written statement of his defence;

(ii) where the defendant makes a disclosure of any property or asset pursuant to orders passed by the Tribunal, the provisions of sub-section (4A) of this section shall apply to such property or asset;

(iii) in case of non-compliance of any order made under clause (ii) of sub-section (4), the Presiding Officer may, by an order, direct that the person or officer who is in default, be detained in civil prison for a term not exceeding three months unless in the meantime the Presiding Officer directs his release:

Provided that the Presiding Officer shall not pass an order under this clause without giving an opportunity of being heard to such person or officer.

Explanation.-For the purpose of this section, the expression 'officer who is in default' shall mean such officer as defined in clause (60) of section 2 of the Companies Act, 2013."; (18 of 2013)

(viii) for sub-section (5A), the following sub-section shall be substituted namely:-

"(5A) On receipt of the written statement of defendant or on expiry of time granted by the Tribunal to file the written statement, the Tribunal shall fix a date of hearing for admission or denial of documents produced by the parties to the proceedings and also for continuation or vacation of the interim order passed under sub-section (4).

(5B) Where a defendant makes an admission of the full or part of the amount of debt due to a bank or financial institution, the Tribunal shall order such defendant to pay the amount, to the extent of the admission within a period of thirty days from the date of such order failing which the Tribunal may issue a certificate in accordance with the provisions of sub-section (22) to the extent of the amount of debt due admitted by the defendant.";

(ix) in sub-section (6), after the words "the debt sought to be set-off", the words "the debt sought to be set-off along with original documents and other evidence relied on in support of claim of set-off in relation to any ascertained sum of money, against the applicant" shall be substituted;

(x) In sub-section (10), for the words "as may be fixed by the Tribunal", the words "as may be prescribed" shall be substituted;

(xi) after sub-section (10), the following sub-sections shall be inserted, namely:-

"(10A) Every application under sub-section (3) or written statement of defendant under sub-section (5) or claim of set-off under sub-section (6) or a counter-claim under sub-section (8) by the defendant, or written statement by the applicant in reply to the counter-claim, under sub-section (10) or any other pleading whatsoever, shall be supported by an affidavit sworn in by the applicant or defendant verifying all the facts and pleadings, the statements pleading documents and other documentary evidence annexed to the application or written statement or reply to set-off or counter-claim, as the case may be:

Provided that if there is any evidence of witnesses to be led by any party, the affidavits of such witnesses shall be filed simultaneously by the party with the application or written statement or replies filed under sub-section (10A).

(10B) If any of the facts or pleadings in the application or written statement are not verified in the manner provided under sub-section (10A), a party to the proceedings shall not be allowed to rely on such facts or pleadings as evidence or any of the matters set out therein.";

(xii) for sub-section (11), the following sub-section shall be substituted, namely:-

"(11) Where a defendant sets up a counter-claim in the written statement and in reply to such claim the applicant contends that the claim thereby raised ought not to be disposed of by way of counter-claim but in an independent action, the Tribunal shall decide such issue along with the claim of the applicant for recovery of the debt.";

(xiii) sub-section (12) shall be omitted.

(xiv) in sub-section (13) (A), for the words "the Tribunal is satisfied by affidavit or otherwise", the words "the Tribunal on an application made by the applicant along with particulars of property to be attached and estimated value thereof, or otherwise is satisfied" shall be substituted.";

(xv) sub-section (14) shall be omitted.

(xvi) in sub-section (15), for the word bracket and figure "sub-section (14)", the word bracket and figure "sub-section (13)" shall be substituted.

(xvii) for sub-section (19), the following sub-section shall be substituted namely:-

"(19) Where a certificate of recovery is issued against a company as defined under the Companies Act, 2013 (18 of 2013) and such company is under liquidation, the Tribunal may by an order direct that the sale proceeds of secured assets of such company be distributed in the same manner as provided in section 326 of the Companies Act, 2013 or under any other law for the time being in force.";

(xviii) for sub-section (20), the following sub-section shall be substituted, namely:-

"(20) The Tribunal may, after giving the applicant and the defendant, an opportunity of being heard, in respect of all claims, set-off or counter-claim, if any, and interest on such claims, within thirty days from the date of conclusion of the hearings, pass interim or final order as it deems fit which may include order for payment of interest from the date on which payment of the amount is found due up to the date of realisation or actual payment.";

(xix) after sub-section (20A), the following sub-sections shall be inserted, namely:-

"(20AA) While passing the final order under sub-section (20), the Tribunal shall clearly specify the assets of the borrower over which security interest is created in favour of any bank or financial institution and direct the Recovery Officers to distribute the sale proceeds of such assets as provided in sub-section (20AB).

(20AB) Notwithstanding anything to the contrary contained in any law for the time being in force, the proceeds from sale of secured assets shall be distributed in the following orders of priority, namely:-

(i) the costs incurred for preservation and protection of secured assets, the costs of valuation, public notice for possession and auction and other expenses for sale of assets shall be paid in full;

(ii) debts owed to the bank or financial institution.

Explanation.-For the purposes of this sub section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016, in cases 31 of 2016. where insolvency and bankruptcy proceedings are pending in respect of secured assets of the borrower, the distribution of proceeds from sale of secured assets shall be subject to the order of priority as provided in that Code.".

(xx) for sub-section (21), the following sub-section shall be substituted, namely:-

"(21) (i) The Tribunal shall send a copy of its final order and the recovery certificate, to the applicant and defendant.

(ii) The applicant and the defendant may obtain copy of any order passed by the Tribunal on payment on such fee as may be prescribed.";

(xxi) for sub-section (22), the following sub-section shall be substituted, namely:-

"(22) The Presiding Officer shall issue a certificate of recovery along with the final order, under sub-section (20), for payment of debt with interest under his signature to the Recovery Officer for recovery of the amount of debt specified in the certificate.";

(xxii) after sub-section (22), the following sub-section shall be inserted, namely:-

"(22A) Any recovery certificate issued by the Presiding Officer under sub-section (22) shall be deemed to be decree or order of the Court for the purposes of initiation of winding up proceedings against a company registered under the Companies Act, 2013 (18 of 2013) or Limited Liability Partnership registered under the Limited Liability Partnership Act, 2008 (9 of 2008) or insolvency proceedings against any individual or partnership firm under any law for the time being in force, as the case may be.";

(xxiii) in sub-section (24), for the words "endeavour shall be made by it", the following words "every effort shall be made by it to complete the proceedings in two hearings, and" shall be substituted.

**33. Insertion of new section 19A.** After section 19 of the principal Act, the following sections shall be inserted, namely:-

**"19A. Filing of recovery applications, documents and written statements in electronic form.** (1) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions contained in section 6 of the Information Technology Act, 2000, (21 of 2000) the Central Government may by rules provide that from such date and before such Tribunal and Appellate Tribunal, as may be notified,-

(a) application or written statement or any other pleadings and the documents to be annexed thereto required to be filed shall be submitted in the electronic form and authenticated with digital signature of the applicant, defendant or any other petitioner in such form and manner as may be prescribed;

(b) any summons, notice or communication or intimation as may be required to be served or delivered under this Act, may be served or delivered by transmission of pleadings and documents by electronic form and authenticated in such manner as may be prescribed.

(2) Any interim or final order passed by the Tribunal or Appellate Tribunal displayed on the website of such Tribunal or Appellate Tribunal shall be deemed to be a public notice of such order and transmission of such order by electronic mail to the registered address of the parties to the proceeding shall be deemed to be served on such party.

(3) The Central Government may by rules provide that the electronic form for the purpose specified in this section shall be exclusive, or in the alternative or in addition to the physical form, therefor.

(4) The Tribunal or the Appellate Tribunal notified under sub-section (1), for the purpose of adopting electronic filing, shall maintain its own website or common website with other Tribunals and Appellate Tribunal or such other universally accessible repositories of electronic information and ensure that all orders or directions issued by the Tribunal or Appellate Tribunal are displayed on the website of the Tribunal or Appellate Tribunal, in such manner as may be prescribed.

Explanation.-For the purpose of this section,-

(a) 'digital signature' means the digital signature as defined under clause (P) of section 2 of the Information Technology Act, 2000; (21 of 2000)

(b) 'electronic form' with reference to an information or a document means the electronic form as defined under clause (r) of section 2 of the Information Technology Act, 2000." (21 of 2000)

**34. Amendment of section 20.** In the principal Act, in section 20 in sub-section (3), for the words "forty-five days", at both the places where they occur, the words "thirty days" shall be substituted.

**35. Amendment of section 21.** In the principal Act, in section 21,-

(i) for the words "seventy-five per cent.", the words "fifty per cent." shall be substituted;

(ii) in the proviso, for the words "waive or reduce the amount", the words "reduce the amount to be deposited by such amount which shall not be less than twenty-five per cent. of the amount of such debt so due" shall be substituted.

**36. Amendment of section 22.** In the principal Act, in section 22, after sub-section (3), the following sub-section shall be inserted, namely:-

"(4) For the purpose of proof of any entry in the 'bankers books', the provisions of the Bankers' Books Evidence Act, 1891 (18 of 1891) shall apply to all the proceedings before the Tribunal or Appellate Tribunal.".

**37. Insertion of new section 22A.** In the principal Act, after section 22, the following section shall be inserted, namely:-

**"22A. Uniform procedure for conduct of proceedings.** The Central government may, for the purpose of this Act, by rules, lay down uniform procedure consistent with the provisions of this Act for conducting the proceedings before the Tribunals and Appellate Tribunals.".

**38. Amendment of section 25.** In the principal Act, in section 25,-

(i) after clause (a), the following clause shall be inserted, namely:-

"(aa) taking possession of property over which security interest is created or any other property of the defendant and appointing receiver for such property and to sell the same;".

(ii) after clause (c), the following clause shall be inserted, namely:-

"(d) any other mode of recovery as may be prescribed by the Central Government."

**39. Amendment of section 27.** In the principal Act, in section 27, for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Presiding Officer, may by an order, grant time for payment of the amount, provided the defendant makes a down payment of not less than twenty-five per cent. of the amount specified in the recovery certificate and gives an unconditional undertaking to pay the balance within a reasonable time, which is acceptable to the applicant bank or financial institution holding recovery certificate.

(1A) The Recovery Officer shall, after receipt of the order passed under sub-section (1), stay the proceedings until the expiry of the time so granted.

(1B) Where defendant agrees to pay the amount specified in the Recovery Certificate and proceeding are stayed by the Recovery Officer, the defendant shall forfeit right to file appeal against the orders of the Tribunal.

(1C) Where the defendant commits any default in payment of the amount under sub-section (1), the stay of recovery proceedings shall stand withdrawn and the Recovery Officer shall take steps for recovery of remaining amount of debt due and payable."

**40. Insertion of new section 30A.** In the principal Act, after section 30, the following section shall be inserted, namely:-

**"30A. Deposit of amount of debt due for filing appeal against orders of the Recovery Officer.** Where an appeal is preferred against any order of the Recovery Officer, under section 30, by any person from whom the amount of debt is due to a bank or financial institution or consortium of banks or financial institutions, such appeal shall not be entertained by the Tribunal unless such person has deposited with the Tribunal fifty per cent. of the amount of debt due as determined by the Tribunal."

**41. Insertion of new section 31B.** In the principal Act, after section 31A, the following section shall be inserted, namely:-

**"31B. Priority to secured creditors.** Notwithstanding anything contained in any other law for the time being in force, the rights of secured creditors to realise secured debts due and payable to them by sale of assets over which security interest is created, shall have priority and shall be paid in priority over all other debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or local authority.

Explanation.-For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016, (31 of 2016) in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code."

**42. Amendment of section 36.** In the principal Act, in section 36, in sub-section (2),-

(i) clause (a) shall be numbered as clause (aa) and before clause (aa) as so renumbered, the following clause shall be inserted, namely:-

"(a) other business or commercial rights of similar nature under clause (jb) of section 2;";

(ii) after clause (c), the following clause shall be inserted, namely:-

"(ca) the form of application and the fee for filing application under sub-section (3) of section 19;

(iii) in clause (cc), for the brackets, figure and letter "(3A)", the brackets, figure and letter "(3B)" shall be substituted;

(iv) after clause (cc), the following clauses shall be inserted, namely:-

"(cca) the period for filing written statement under sub-section (10) of section 19;

(ccb) the fee for obtaining copy of the order of the Tribunal under sub-section (21) of section 19;

(ccc) the form and manner of authenticating digital signature under clause (a), and the manner of authenticating service or delivery of pleadings and documents under clause (b), of sub-section (1) of section 19A;

(ccd) the form and manner of filing application and other documents in the electronic form under sub-section (1) and manner of display of orders of the Tribunal and Appellate Tribunal under sub-section (4) of section 19A;";

(v) after clause (d), the following clauses shall be inserted, namely:-

"(da) the rules of uniform procedure for conducting the proceedings before the Tribunals and Appellate Tribunals under section 22A;

(db) the other mode of recovery under clause (d) of section 25;".

**43. Amendment of Act 2 of 1899.** The Indian Stamp Act, 1899 shall be amended in the manner specified in the First Schedule.

**44. Amendment of Act 22 of 1996.** The Depositories Act, 1996 shall be amended in the manner specified in the Second Schedule.

## THE FIRST SCHEDULE

**(See section 43)**

**AMENDMENT TO THE INDIAN STAMP ACT, 1899**

**(2 OF 1899)**

After section 8E, the following section shall be inserted, namely:-

**"8F. Agreement or document for transfer or assignment of rights or interest in financial assets not liable to stamp duty.** Notwithstanding anything contained in this Act or any other law for the time being in force, any agreement or other document for transfer or assignment of rights or interest in financial assets of banks or financial institutions under section 5 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (54 of 2002) in favour of any asset reconstruction company, as defined in clause (ba) of sub-section (1) of section 2 of that Act, shall not be liable to duty under this Act.".

## THE SECOND SCHEDULE

**(See section 44)**

**AMENDMENT TO THE DEPOSITORIES ACT, 1996**

**(22 OF 1996)**

In section 7, after sub-section (1), the following sub-sections shall be inserted, namely:-

"(1A) Every depository on receipt of intimation from a participant register any transfer of security in favour of an asset reconstruction company as defined in clause (ba) of sub-section (1) of section 2 ofthe Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002) along with or consequent upon transfer or assignment of financial asset of any bank or financial institution under sub-section (1) of section 5 of that Act.

(1B) Every depository, on receipt of intimation from a participant, register any issue of new shares in favour of any bank or financial institution or asset reconstruction company or any other assignee of such bank or financial institution or asset reconstruction company, as the case may be, by conversion of part of their debt into shares pursuant to reconstruction of debts of the company agreed between the company and the bank or financial institution or asset reconstruction company.

Explanation.-For the purpose of this section, the expressions "asset reconstruction company", "bank", and "financial institution" shall have the meanings assigned to them respectively under clauses (ba), (c) and (m) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002." (54 of 2002).

**DR. G. NARAYANA RAJU,**

Secretary to the Govt. of India.

**RAM DAYAL**

Digitally signed by RAM DAYAL

Date: 2016.08.17

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ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

**ಹೆಚ್. ರಾಜ್‌ಕುಮಾರ್**

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರ)

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

**P.R. 31**

**SC - 20**

## ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಸಚಿವಾಲಯ

### ಅಧಿಸೂಚನೆ

**ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 34 ಕೇಶಾಪ್ರ 2016, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 19ನೇ ನವೆಂಬರ್ 2016**

ದಿನಾಂಕ 09–05–2016 ರಂದು ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ (1) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Constitution (Scheduled Castes) Order (Amendment) Act, 2016 (No. 24 of 2016) ದಿನಾಂಕ: 09–05–2016 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

## MINISTRY OF LAW AND JUSTICE

### (Legislative Department)

**New Delhi, the 9th May, 2016/Vaisakha 19, 1938 (Saka)**

The following Act of Parliament received the assent of the President on the 6th May, 2016, and is hereby published for general information:-

## THE CONSTITUTION (SCHEDULED CASTES) ORDER (AMENDMENT) ACT, 2016

### No.24 OF 2016

### [6th May, 2016]

An Act further to amend the Constitution (Scheduled Castes) Order, 1950.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:-

**1. Short title and commencement.** (1) This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in any provision to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

**2. Amendment of Constitution (Scheduled Castes) Order. 1950.** In the Schedule to the Constitution (Scheduled Castes) Order, 1950,- (C.O. 19.)

(a) in Part V.-Haryana.-

(i) after entry 1, insert,-

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"1 A. Aheria, Aheri, Hari, Heri, Thori, Turi";

(ii) after entry 29, insert,-

"29A. Rai Sikh";

(b) in Part VIII.-Kerala, for entries 36 and 37, substitute-

"36. Malayan (in the areas comprising the Kannur, Kasaragode, Kozhikode and Wayanad districts)

37. Mannan, Pathiyan, Perumannan, Peruvannan, Vannan, Velan";

(c) in Part XIII.-Odisha, omit entries 8 and 49;

(d) in Part XIX.- West Bengal, for entry 60, substitute-

"60. Chain";

(e) in Part XXIII.-Chhattisgarh, for entry 25, substitute-

"25. Ghasi, Ghasia, Sais, Sahis, Sarathi, Soot-Sarathi, Thanwar"

**DR. G. NARAYANA RAJU,**

Secretary to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

**ಹೆಚ್. ರಾಜ್‌ಕುಮಾರ್**

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರ)

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳ ಇಲಾಖೆ.

**P.R. 32**

**SC - 20**

ಮುದ್ರಕರು ಹಾಗೂ ಪ್ರಕಾಶಕರು:– ಸಂಕಲನಾಧಿಕಾರಿಗಳು, ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ, ಸರ್ಕಾರಿ ಕೇಂದ್ರ ಮುದ್ರಣಾಲಯ, ಬೆಂಗಳೂರು–59